HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.24963 OF 1998

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Between:

Darji Parameshwar and four others

……Petitioner

And

Deputy Secretary to Government of India,
Ministry of Home Affairs,
Freedom Fighters Division,
1st Floor, Loknayak Bhavan,
New Delhi and two others

……Respondents

:: ORDER ::

Counsel for the Petitioners : None

Counsel for Respondent Nos.1 and 2 : Sri A.Rajasekhar Reddy,
Assistant Solicitor General

Dated: 08-08-2006

In this petition, the petitioners have prayed for issue of a mandamus to the respondents to consider and decide their applications for grant of pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the Scheme').

In paragraph B-1, 2, 3 and 4 of the counter affidavit filed by Sri Surjit Singh, Under Secretary, Ministry of Home Affairs, the following averments have been made:

> "B. That I have been furnished with a copy of the said writ petition and after going through the same and the concerned record, I give the reply to the said writ petition as under:
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> 1. That as per the records with the respondents, the petitioner has not filed any application for grant of Central Pension to this Ministry. In absence of any such application, there is no question of consideration of the case of petitioner by the respondents. The petitioner has not given the specific date of his application which he claims to have filed to this respondent. The records have been thoroughly checked. No application of the petitioner appears to have been received by the respondents.
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> 2. That a copy of the salient features of the pension Scheme, 1980 is annexed as R.I. As per this Scheme, a freedom fighter is a person who, on account of his participation in freedom struggle, had suffered a minimum imprisonment of six months in mainland jails before independence. A person who remained underground for six months or more provided he was (i) a proclaimed offender, or one on whom an award for arrest/head was announced, or (iii) one whose detention order was issued but not served are also eligible for the pension. However, the pension is admissible only when the evidences as required under the scheme and mentioned in R.I are furnished by the applicant.
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> 3. That as per the pension scheme the

petitioner is required to apply in duplicate one copy of application duly supported by documents required should be sent through the State Government and an advance copy directly to the respondent. The petitioner in this case has not submitted the application through the State Government. Therefore, his claim of suffering remains unverified and unsubstantiated. Moreover, the petitioner has failed to furnish the evidences required under the scheme in support of his claim of underground suffering in Hyderabad Liberation Movement.

4. That the claim of the petitioner that he applied for grant of pension earlier is not correct. The petitioner has not submitted any evidence to substantiate his claim. As per records available with the respondent the petitioner has not submitted any application."

The petitioners have not filed rejoinder affidavit to controvert the aforementioned averments. Therefore, there is no reason to discard the assertion contained in the counter affidavit that none of the petitioners had filed application for grant of pension under the 1980 Scheme.

I have heard Sri A.Rajasekhar Reddy, learned Assistant Solicitor General and perused the record. Since the petitioners have failed to produce any evidence to prima facie prove that they had submitted application for grant of pension under the 1980 Scheme, the prayer made in the writ petition cannot be accepted.

With the above observations, the writ petition is dismissed.

G.S. SINGHVI, CJ

08-08-2006

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